

FILED UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS 2003 DEC 10 A 11:56 CIVIL ACTION NO.	
03-cv-12485 GAO IVAN D. CARRASCO and RAUL CARRASCO, Plaintiffs v. THE RACK, INC. and SEAN GANNON Defendants	MAGISTRATE JUDGE <u>Dein</u> AMOUNT \$ <u>150</u> SUMMONS ISSUED <u>N/A</u> LOCAL RULE 4.1 <u>1</u> WAIVER FORM <u>1</u> MCF ISSUED <u>1</u> BY DPTY. CLK. <u>F.O.M.</u> <u>12/10/03</u>

NOTICE OF REMOVAL
(Pursuant to 28 U.S.C. §1441)

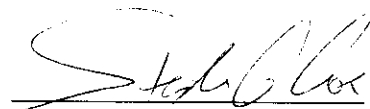
The Defendant Sean Gannon petitions, pursuant to 28 U.S.C. §1441, for removal from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts the action entitled *Ivan D. Carrasco and Raul Carrasco v. The Rack, Inc. and Sean Gannon*, currently pending in Suffolk County as Civil Action No. 03-4125.

1. This action alleges that on November 30, 2001, the Defendants violated the federal civil rights of Plaintiffs Ivan D. Carrasco and Raul Carrasco, through threats intimidation and coercion, in violation of the first and fourteenth amendments to the United States Constitution. Plaintiff also claims a violation of state civil rights and intentional infliction of emotional distress by Defendants, and negligence against Defendant The Rack, Inc.;
2. Plaintiffs also specifically allege that Defendants violated 42 U.S.C. §1983 (Count Three). This action clearly "arises under the Constitution treaties or laws of the United States" and is therefore removable under 28 U.S.C. §1441;

3. A fair reading of the facts and theories as a whole make it apparent that federal constitutional law and issues are an essential part of the case and therefore, Defendants have the statutory right to remove this action;
4. This Notice of Removal is being filed within thirty (30) days of service upon Defendants; and
5. On information and belief, the named Defendants have given their consent for removal.

WHEREFORE, Defendant petitions that this action be removed.

Respectfully submitted,
DEFENDANT, Sean Gannon
By his attorney,

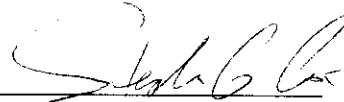


Stephen G. Cox
Assistant Corporation Counsel
BBO# 566943
City of Boston Law Department
Room 615, Boston City Hall
Boston, Massachusetts 02201
(617) 635-4064

VERIFICATION

I, Stephen G. Cox, hereby swear under the pains and penalties of perjury that the statements of fact in the petition are true and correct to the best of my knowledge, information and belief.

Respectfully submitted,
DEFENDANT, City of Boston
Merita A. Hopkins
Corporation Counsel
By its attorney,



Stephen G. Cox
Assistant Corporation Counsel
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Room 615, Boston City Hall
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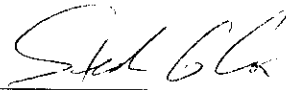
CERTIFICATE OF SERVICE

I, Stephen G. Cox, hereby certify that on this date I served a copy of the foregoing documents upon the following by facsimile and mail:

Robert H. Flynn, Esq.
Daly, Cavanaugh & Flynn, LLP
27 Mica Lane
Wellesley, MA 02481

Leonard J. Caruso, Esq.
Law Offices of Leonardo J Caruso
221 Lewis Wharf
Boston, MA 02110

12/10/03
Date


Stephen G. Cox